MULTIMEDIA UNIVERSITY

STUDENT IDENTIFICATION NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2016/2017

PLC0015 – INTRODUCTION TO COMMERCIAL LAW

(All sections / Groups)

15 OCTOBER 2016

2.30 PM – 4.30PM

(2 Hours)

INSTRUCTIONS TO STUDENTS

1. This Question paper consists of Seven (7) pages.
2. Answer **All** questions.
3. All answers should be written in the Answer Booklet.

SECTION A: TRUE/FALSE QUESTIONS [15 MARKS]

1. An application to enter a college is only an antecedent step towards communication and does not constitute a proposal.

2. A unilateral mistake will not affect the validity of a contract.

3. A contract of sale is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price.

4. A person temporarily suffering from mental disability has a capacity to contract.

5. Molly owes Benny RM1000, but the debt is barred by limitation. Molly signs a written promise to pay Benny RM500 on account of the debt. This is contract.

6. Suppiah agrees with Muthu to discover treasure by magic. The agreement is valid.

7. The following states each have a Constitution: Johor and Malacca.

8. This law is a Federal Legislation: Copyright (Amendment) Act 2010

9. National Law is passed by a state's legislature & applies only within the said sovereign state (i.e. internal law of a state).

10. Under the Doctrine of Judicial Precedent the decisions of the Subordinate court forms part of Malaysian law.

11. Zara is suing Zeek for breach of contract. She intends to claim damages worth RM 5 million as part of the settlement. You advise her that she should go to the High Court as only the High Court has the necessary jurisdiction to hear this matter.

12. An agreement to sell is also known as an executed contract of sale.

13. Existing goods are goods which are already owned or possessed by the seller at the time the contract of sale is made.

14. Agency contracts may discharge through performance, by agreement, by conduct or Notice and by frustration.

Continued...

15. A universal agent is a general agent with extensive authority. He can do all acts which a principal may personally do.

SECTION B: MULTIPLE CHOICE QUESTIONS [15 MARKS]

16. In hire-purchase, an owner of goods agrees to _____ the goods to a hirer and in return the hirer pays the owner periodic payments. The hirer may terminate the contract by _____ to the owner.
    A. sell; returning the payment
    B. rent; retuning the goods
    C. let; returning the goods
    D. let; retuning the payment

17. Timmy has suffered the loss of his two arms in a road accident last month. Which court would be the best and correct court for him to initiate legal proceedings?
    A. High Court
    B. Road Traffic Offences Tribunal
    C. Sessions Court
    D. Special Court for Accidents

18. Principals and agents enter into a contract whereby the _____ appoint or employ the _____ to act on his behalf in dealings with _____.
    A. agents; principals; third persons
    B. agents; third persons; principals
    C. principals; agents; third persons
    D. principals; third persons; agents

19. Subsidiary legislation is important because:

    i. It can be implemented promptly;
    ii. It is flexible and can be amended easily
    iii. Legislation is insufficient to provide the details laws;
    iv. The legislature has insufficient time to enact all kinds of law.

    A. i, ii & iii
    B. i, ii & iv
    C. ii, iii & iv
    D. All the above

Continued...

20. The areas of law that may be categories into private law are:

    i. Law of Succession
    ii. Criminal law
    iii. Contract law
    iv. Constitutional law

    A. i & iii
    B. i & iv
    C. ii & iii
    D. All the above

21. The following relationship can raise a presumption that 'undue influence' has been exercised **EXCEPT**

    A. relationship parent and children
    B. relationship between brother and sister
    C. relationship between doctor and patient
    D. relationship between solicitor and client

22. The following statements is **TRUE** about Federal Legislation **EXCEPT**:

    A. Federal legislation is applicable throughout Malaysia.
    B. Federal legislation includes also laws enacted by the State Assemblies.
    C. The nomenclature 'Act' is used referring to federal legislation enacted after 1959.
    D. Federal legislation refers to laws enacted by Parliament under powers conferred on them by the Federal constitution.

23. The following are the powers of the Federal Courts:

    i. Appellate Jurisdiction
    ii. Original Jurisdiction
    iii. Referral Jurisdiction
    iv. Advisory Jurisdiction

    A. i, ii & iii
    B. i, iii & iv
    C. ii, iii & iv
    D. All the above

Continued...

24. Mat Lawa is a person below the age of 18, enters into a scholarship contract with University Malaya. Mat Lawa's contract is _____
    A. Void ab initio
    B. Voidable
    C. Valid with exceptions
    D. Valid

25. _____ is an order of the court restraining Philip from the doing of an act. It will be granted to enforce a negative stipulation in a contract where damages would not be an adequate remedy.

    A. Specific Performance
    B. Court Order
    C. Injunction
    D. Specific Relief

26. The _____ gives the unpaid seller who is in possession of the goods to retain possession or withhold delivery until payment is made.
    A. right of lien
    B. right of resale
    C. right of stoppage in time
    D. right of delivery

27. The duty of a buyer under a contract of sale of goods are:
    i. to make payment
    ii. to take delivery of the goods
    iii. to accept delivery of the goods

    A. i & ii
    B. i & iii
    C. ii & iii
    D. All of the above

28. Minnie wants to revoke her proposal to Daisy by post on 1.7.2015. The revocation is complete as against Minnie, when the post is sent to Daisy on 3.7.2015. Daisy went overseas for a holiday and came back on the 7.7.2015. It is complete and was within Daisy's knowledge when Daisy receives the letter on 24.7.2015. The communication is complete as against Daisy on _____.
    A. 7.7.2015
    B. 3.7.2015
    C. 1.7.2015
    D. 24.7.2015

Continued...

29. A consideration of an agreement is unlawful if
    (i) It is as immoral
    (ii) It is of such nature that, if permitted, it would defeat any law
    (iii) It involves or implies injury to the person or property of another
    (i) The court regards it as opposed to public policy

    A. ii & iii
    B. i, ii & iii
    C. ii, iii & iv
    D. All the above.

30. Section 4 (1) of the *Hire-Purchase Act 1967* imposes a pre-contractual obligation on the prospective owner or dealer to supply written and signed statements to the prospective hirer. These statements must be in accordance with the form as set out in the _____ Schedule.

    A. First
    B. Second
    C. Third
    D. Fourth

Continued...

SECTION C: ANSWER ALL QUESTIONS [70 MARKS]

QUESTION 1 [20 MARKS]

a. Shanon arrives at Queens Hotel. Once he steps in the lobby area, he slips and fall as the floor was wet and slippery. There were no warning signs cautioning that the floor was wet. As a result of the fall, Shanon sustained severe injuries and he now wants to commence a legal action against the Hotel.

Shanon seeks your advice as to what law is applicable to the above situation.

(5 marks)

b. Name the provisions which allows the application of English Law in Malaysia and state reasons for application.

(8 marks)

c. Discuss the difference between proposal and invitation to treat. **(7 marks)**

QUESTION 2 [25 MARKS]

a. Kalai, aged 34, has been convicted in the Magistrates' Court of theft of a 3 cartons of milk and several children's cloths worth RM1000 and sentenced to six months in prison. She wishes to appeal against both her conviction and her sentence. Explain and evaluate the different ways in which she may appeal against these decisions. **(10 marks)**

b. Ethan wants to sell his old "Mustang" car for RM1000. He then sent an sms to George offering to sell his car on 1st January. George was a little reluctant to accept the offer as he thought RM1000 was just too expensive for an old car. Ethan gave George some time to think about the offer.

Ethan was becoming impatient and on 1st January he approached another friend of his, Peppa to sell his car to at only RM700. Peppa came to his place to have a look at the car. Later that evening she dropped him an sms saying that "RM700 is so expensive, you don't expect a diva like me to drive around in that junk but its ok I'll help you, I'll take it for RM700. However, please send the car for wash and replace the radio in the car."

Continued...

Ethan have not read Peppa's text as he was watching the television and a show was going on talking about vintage cars. George too, sent him a text agreeing to purchase the car. As Ethan was watching the show, he was so surprised to find out that the Mustang car of his was considered a collectible and is worth RM200 000. He was so happy to hear this, and decided to withdraw his offer. He reached for his phone to inform George and Peppa but he saw two sms from George and Peppa. Ethan sent an sms to withdraw the offer despite reading George and Peppa's sms.

Advise the Ethan. **(15 marks)**

QUESTION 3 [25 MARKS]

a. Joan negotiates the terms of hire-purchase agreement with Ephraim, the manager of the huge company. Ephraim needs to prepare the documents necessary for the transaction and ask for your help.

Advise Ephraim on the procedure for the formation of a hire-purchase agreement. **(10 marks)**

b. After a formal agreement has been signed, the company sent the hi-fi system to Joan's house. Joan is very excited and wanted start to use it. However, instead of it being a good sound system, it was faulty. Advise Joan.

(5 marks)

c. Ali Baba is the leader of a newly formed political party called 'IAMALWAYSRIGHTABUSHITHA'. He organizes an open rally in Stadium Kajang to publicize the party. Mat Jakun, a prominent supporter of the party inform Ali Baba that he will provide RM20,000 to help with the expenses. However, after the rally, Ali Baba was informed by Mat Jakun that he is unable to pay the promised RM20,000 because his business suffered loss.

Can Ali Baba bring a legal action against Mat Jakun to claim for the promised RM 20,000? State your reasons.

(10 marks)

End of Paper